

# Order

Michigan Supreme Court  
Lansing, Michigan

November 24, 2015

Robert P. Young, Jr.,  
Chief Justice

149795

Stephen J. Markman  
Brian K. Zahra  
Bridget M. McCormack  
David F. Viviano  
Richard H. Bernstein  
Joan L. Larsen,  
Justices

PEOPLE OF THE STATE OF MICHIGAN,  
Plaintiff-Appellee,

v

SC: 149795  
COA: 321556  
Kent CC: 13-005106-FH

DAVID JAMES OVERHOLT, JR.,  
Defendant-Appellant.

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By order of February 3, 2015, the application for leave to appeal the June 4, 2014 order of the Court of Appeals was held in abeyance pending the decision in *People v Hartwick* (Docket No. 148444) and *People v Tuttle* (Docket No. 148971). On order of the Court, the case having been decided on July 27, 2015, 498 Mich 192 (2015), the application is again considered and, pursuant to MCR 7.305(H)(1), in lieu of granting leave to appeal, we REMAND this case to the Court of Appeals for consideration, as on leave granted, of whether the defendant, who sold, transferred, or delivered marijuana to a patient or caregiver to whom he was not connected through the registration process of the Michigan Medical Marihuana Act (MMMA), MCL 333.26421 *et seq.*, “may assert the medical purpose for using marihuana in a motion to dismiss, and the charges shall be dismissed following an evidentiary hearing where the person shows the elements listed in subsection (a).” MCL 333.26428(b). Cf., *State v McQueen*, 493 Mich 135, 156 ns 59 & 60 (2013). In all other respects, leave to appeal is DENIED, because we are not persuaded that the remaining question presented should be reviewed by this Court.

We further ORDER that this case be argued and submitted to the Court of Appeals together with the case of *People v Bylsma* (Docket No. 148440), which we remanded to the Court of Appeals for consideration as on leave granted by order of the same date, at such future session of the Court of Appeals as both cases are ready for submission.


We do not retain jurisdiction.



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I, Larry S. Royster, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

November 24, 2015

  
Clerk